

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE DISCO BISCUITS,

Plaintiff,

-against-

SUNSET RECORDS GROUP, INC.,
DON LICHTERMAN, JOHN DOE 1
AND JOHN DOE 2,

Defendants.
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Dk # 07-CV- 5909
Naomi Reice Buchwald, U.S.D.J.

**AFFIRMATION OF
ROBERT S. NAYBERG, ESQ.,
IN RESPONSE TO
DEFENDANTS' COUNSEL'S
MOTION TO WITHDRAW**

ROBERT S. NAYBERG, an attorney admitted to practice before this Court,
affirms to the following under the penalty of perjury:

1. I am a member of The Scher Law Firm, LLP, the attorneys of record
for the Plaintiff, The Disco Biscuits (hereinafter "Plaintiff"), in this Action.

2. The Plaintiff does not oppose Michael D. Ritigstein's Motion To
Withdraw as Counsel for the Defendants. We note, however, that Counsel's
Motion and proposed Order do not provide for a period within which the
Defendants shall retain new counsel. Indeed, as discussed below, the Defendants
appear to have already retained new counsel and therefore its current counsel's
exit and new counsel's appearance could have been expeditiously accomplished by
means of a stipulated substitution of counsel. The Plaintiff respectfully requests
therefore, that the Court allow the Defendants no more than one week to "retain"
their new counsel.

3. The Plaintiff and the Defendants met on Friday, January 11, 2008 in
an attempt to settle this Action. There was no settlement. Following that

meeting, the Plaintiff's manager, David Sonnenberg, and one of the attorneys from my office, Austin R. Graff, Esq., each received an e-mail directly from the Defendant Don Lichterman that are charitably described as ranting. See, **Exhibit A**, copies of the Defendant Lichterman's e-mails of January 12, 2008 to Mr. Sonnenberg, and January 13 and 14, 2008 to Mr. Graff. When Mr. Graff informed the Defendants' Counsel of the impropriety of the direct communications from the Defendant Lichterman to him, the Defendant Lichterman followed up with another e-mail to Mr. Graff on January 15, 2008 in which the Defendant Lichterman revealed that he already retained new counsel:

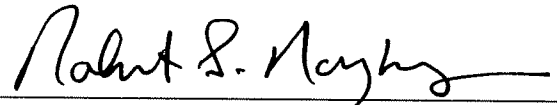
You need to know that I have hired outside legal counsel to deal with your case. I want to be the one to say those things to your faces and actually, let me rephrase that sentence. These law firms that I interviewed in the last couple days want this case on contingency, which is a first in my life. I have always paid retainers way upfront for my services and my dad is not a lawyer."

Exhibit B, at the Defendant Lichterman's January 15, 2008 e-mail (emphasis added).

4. The Plaintiff respectfully requests therefore that the Defendants not be permitted to delay moving this case through discovery.

WHEREFORE, it is respectfully requested that the Court grant the Motion by Michael D. Ritigstein, Esq. to withdraw as Counsel for the Defendants and permit the Defendants one week to retain new counsel together with such other and further relief this Court deems just, proper and equitable.

Dated: Carle Place, New York
January 28, 2008



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